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In re Application of
BECKMANN, Alexander
Application No.: 09/926,120
PCT Application No.: PCT/DE00/04447
International Filing Date: 14 December 2000
Priority Date: 14 December 1999
Attorney Docket No.: P67117US0
For: SULFIDIZATION OF SULFIDE ORES
FOR HYDROMETALLURGICAL
EXTRACTION OF COPPER AND
OTHER METALS

DECISION ON
PETITIONS
UNDER 37 CFR 1.137(b)
AND
37 CFR 1.181

Applicant's "Petition for Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 19 September 2001 is **GRANTED**.

Applicant's "Response to Notification of Missing Requirements Under 37 U.S.C. 371" stating that the oath or declaration was earlier filed on 19 September 2001, is being treated as a petition to vacate the Notice of Missing Requirements (Form PCT/DO/EO/905). The petition under 37 CFR 1.181 is **GRANTED**.

BACKGROUND

On 14 December 2000, applicant filed an international application, No. PCT/DE00/04447. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 June 2001. The twenty month time period for entering the national stage expired at midnight on 14 August 2001.

On 06 September 2001, applicant filed a transmittal letter accompanied by, *inter alia*, the basic national fee and a preliminary amendment.

On 19 September 2001, applicant filed a Petition for Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) by facsimile at 7:08pm. At 7:32pm, applicant submitted by facsimile, a Supplement to Petition for Revival, which was accompanied by a Combined Declaration and Power of Attorney.

On 22 October 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) informing applicant that an oath or declaration of the inventors was required.

On 06 December 2001, applicant filed a Response to Notification of Missing Requirements stating that the oath or declaration had been filed on 19 September 2001 and enclosed a copy of the fax and a copy of the declaration.

DISCUSSION

PETITION TO REVIVE

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as application was filed on 14 December 2000. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

REQUEST TO VACATE NOTICE OF MISSING REQUIREMENTS

On 15 August 2001, the international application went abandoned for failure to timely file the basic national fee. On 19 September 2001, applicant submitted a combined declaration and power of attorney. On 22 October 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905). The Notification was in error because (1) the application was abandoned and (2) the oath or declaration had been earlier filed.

FEES

The surcharge for late filing of the English translation will be charged to Deposit Account No. 06-1358 as authorized by the transmittal letter filed 06 September 2001.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

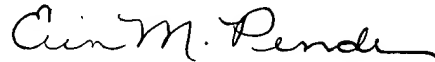
The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 22 October 2001 is **VACATED**.

Applicant's claim for priority is acknowledged. The application has an international filing date of 14 December 2000 under 35 U.S.C. §363 and a date of **19 September 2001** under 35

U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.



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